

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10232 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? :

RAMBHAI KARABHAI KHANT

Versus

SECRETARY NARMADA WATER RESOURCES & WATER SUPPLY VIBHA

Appearance:

MR CS UPADHYAY for Petitioner

Mr.Kodekar, A.G.P. for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 13/07/1999

ORAL JUDGEMENT

1. The petitioner, through this writ petition, has prayed for setting aside and quashing Annexure : C dated 24.11.1998 through which inter-alia the order for absorption of S.S.C. passed daily-wagers employees was cancelled with reference to item Nos.2 & 3 of Resolution No.30.6.1998. Counter Affidavit has been filed by the State Government today. Learned Counsel for the parties have been heard. This petition can be finally disposed of at the admission stage.

2. Brief facts giving rise to this petition are that the Government Resolution dated 30.6.1998 was passed as contained in Annexure : A. There is no dispute between the parties regarding this resolution. Acting upon this resolution seniority of the petitioner was fixed at

Sr.No.3 vide order dated 4.9.1998 from the office of the Superintending Engineer, Himatnagar Irrigation Scheme Circle. This was done with reference to Government Resolution dated 30.6.1998. The grievance of the petitioner is that subsequently on 24.11.1998 through Annexure : C absorption given to the petitioner was cancelled which is illegal inasmuch as this cancellation was passed arbitrarily without affording any opportunity of hearing to the petitioner.

3. The controversy has been narrowed down in the Counter Affidavit filed by the State Government. It has been mentioned in Para : 4.3 of the Counter Affidavit that certain clarifications are needed in Government Resolution dated 30.6.1998 and after clarifications are received the Government will offer an opportunity of being heard to the petitioner. In Para : 4.7 of the Counter Affidavit it is further specified that Resolution dated 30.6.1998 is not cancelled by the Government, but the implementation of the said Resolution is postponed for the time being for further clarification hence it will not affect the petitioner forever in his service and that the Government is prepared to hear the petitioner. In Para : 4.8 of the Counter Affidavit it is further deposed that the adverse effect on the pay of the petitioner is temporary and after clarification is received the temporary effect will automatically vanish. It is also stated in this para that the ban imposed by the Government Resolution aforesaid shall be withdrawn. In Para : 4.9 of the Counter Affidavit it has been stated that the Government has not decided to withdraw the benefit in the daily rated employee and the ban imposed on the implementation of Government Resolution dated 30.6.1998 is temporary in nature. It is further stated that clarifications have been received from R & B Department in connection with Government Resolution dated 30.6.1998. The same shall be considered by the Government in accordance with law.

4. In view of the above depositions in Counter Affidavit it is clear that under some confusion the word "cancelled" has been mentioned in Annexure : C. The Government has not withdrawn or cancelled the earlier resolution dated 30.6.1998. It is further clear that desired clarifications sought by the Government have been received from R & B Department and further action is proposed to be taken in accordance with law.

5. In view of this stand of the Government, in order to avoid further confusion in the matter, it is desirable to quash Annexure : C and direct the respondents to afford opportunity of hearing to the petitioner in case they propose to withdraw or cancel Government Resolution dated 30.6.1998 and further decide to adversely affect

the service conditions. Till final decision is taken in the matter by the Government, in view of clarification received from the R & B Department, status-quo vis-a-vis the petitioner shall be maintained. The writ petition is finally disposed of with above direction. No order as to costs.

Date : July 13, 1999 (D. C. Srivastava, J.)

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